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## Global Role of Justice Dept. Is Irritant at State

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Earlier this year, the Justice Department expanded a sensitive probe of Israeli spying in the United States, linking it to an Israeli Air Force colonel and other key Israelis in court statements that the State Department sought to limit.

Last month, Attorney General Edwin Meese III helped persuade the White House to expel 55 Soviet diplomats, overriding State Department objections that this would damage relations with Moscow and invite further retaliation against U.S. diplomats.

In the coming weeks, Meese must decide whether to bar Austrian President Kurt Waldheim from the United States because of his alleged Nazi activities during World War II, a move that State Department officials fear would greatly complicate relations with Vienna.

In one case after another, the Justice Department has become an aggressive player on the international stage, a role that has produced a growing degree of friction with Secretary of State George P. Shultz and his senior staff.

Such conflicts are inevitable between departments with different mandates—one tightly focused on law enforcement, the other with broad concerns about U.S. relations worldwide. But these clashes have occurred more frequently under President Reagan, whose Justice Department has adopted a concerted global strategy against spies, terrorists, drug traffickers and money-launderers.

"We've had some real wrestling matches, no question about it," a senior Justice Department official said, referring to State and Justice. "There's a static electricity that surrounds these things." But he said the two "have almost always been able to reach some accommodation."

A high-level State Department official agreed, saying the two have a good working relationship but citing "some differences in approach."

"Where you get the charge that we're selling out to maintain good relations is from the U.S. attorneys, who are not familiar with interna-

tional procedures," this official said. "They say, 'Gee, why can't I just slap a subpoena on the King of Spain?' When you tell them it doesn't work that way, they say, 'It's the State Department wimps trying to ruin my case.'"

Such demands for evidence abroad "create a foreign policy conflict, and it just doesn't work," he said. "You may have to do a bit of negotiating with the other country to get what you want."

One such battle occurred two years ago when Justice Department investigators demanded the records of a Canadian bank with a branch in a Caribbean tax haven. The Canadian prime minister complained to Reagan about the subpoena, and State Department officials accompanied Canadian diplomats to a tense meeting at the Justice Department.

"The State Department thought we were crazy, that we were out of our minds," a ranking Justice Department official recalled. "We were the bull in the china shop and were upsetting relations with Canada. The State Department was really on Canada's side."

Sources said then-Attorney General William French Smith refused to back off, saying drug traffickers frequently hide money in offshore tax havens and that Justice would not be thwarted by foreign bank-secrecy laws. The Justice Department eventually won access to the bank records, leading to the conviction of a Florida businessman for tax evasion.

The focus of much recent Justice Department frustration has been State Department legal adviser Abraham D. Sofaer, a hard-charging former judge who oversees such areas as terrorism and espionage. He has rankled Justice officials frequently during the year-long probe of Israeli spying in the United States.

After former Navy analyst Jonathan Jay Pollard was arrested as an Israeli spy last year, sources said, Justice officials differed sharply with Sofaer over the nature and scope of the investigation. Some of the officials viewed Sofaer as defending Israel and trying to limit the damage to U.S.-Israeli relations at the expense of a full-scale probe, sources said.

Justice officials expressed irritation at what they viewed as Israeli delays and misleading responses during the probe. Investigators learned independently that Pollard's Israeli contacts had established a Swiss bank account for him and promised him \$300,000 for U.S. military secrets.

Although the State Department had lauded Israel for fully disclosing its involvement, FBI Director William H. Webster accused the Israelis of providing only "selective cooperation." Israeli

officials, insisting that they had not sanctioned Pollard's activities, accused the Justice Department of waging a "malevolent" anti-Israel campaign.

The interdepartmental feuding reached a climax when Pollard pleaded guilty in June and prosecutors filed a court statement that sources said was much more detailed than the State Department had wanted. The statement said the spying operation was managed here by three unindicted co-conspirators: an Israeli Air Force colonel, an official at Israel's New York consulate and a former adviser on terrorism to two Israeli prime ministers.

Nevertheless, sources said, Sofaer succeeded in deleting other key items from the statement, including an assessment of damage done by the Pollard operation.

Sofaer was unavailable for comment. A State Department official familiar with the issue said the department was "unhappy" about the court statement and had argued that "there's no need to go beyond what is necessary . . . . Some of the information related to other countries and could have upset important strategic relations, and it was not necessary [to disclose it] in order to achieve the end of getting the conviction."

"One of our standard rules is we do not try to stop a prosecution to achieve a foreign policy end," this official said. "The dispute is over how far you go."

The State Department is not the only agency embroiled in disputes with key Justice officials such as Associate Attorney General Stephen S. Trott and internal security chief John L. Martin. The two also argue with federal intelligence agencies about how much can be disclosed in spy cases without compromising national security.

Nor is the jousting between law enforcement agencies and Foggy Bottom a new phenomenon. During the Carter administration, the Federal Bureau of Investigation cited espionage concerns in trying to bar a U.S. visit by two Soviet officials to discuss cultural exchanges. The two sides also wrangled over charges that the State Department was too permissive in granting U.S. visas to Soviet-bloc visitors.

Although these conflicts are discussed often in private, no current member of the administration was willing to discuss them for the record.

Kenneth W. Dam, deputy secretary of state until he resigned to enter private business last year, attributed the internal warfare to "standard Washington bureaucratic politics." For example, he said, the Justice Department tried unsuccessfully to wrest control of World Court litigation from his department and criticized State's handling of the court case involving U.S. intervention in Nicaragua.

On U.S.-Soviet issues, Dam said, "the Justice Department obviously believed we just wanted to be nice to the Russians. Of course, there were people in the State Department who didn't want to anger the Soviets, who felt it would get arms control off the track."

Dam said disputes about offshore subpoenas, such as the one involving the Canadian bank, faded after senior Justice officials reclaimed that responsibility from U.S. attorneys' offices. "The guy who's litigating the case will do anything to win the case," Dam said. "We weren't against

doing anything that might anger a friendly country, but we didn't want those decisions made by a GS-15 in Miami."

Michael Abbell, who headed the Justice Department's Office of International Affairs from 1979 to 1982, said many Justice officials view the State Department as too "wishy-washy."

"I've seen acute cases of 'clientitis' where the State Department bent over backwards to stroke the foreign country," Abbell said. "Every agency has its own parochial interests. The prosecutor's view is that my case is the most important thing in the world . . . but there are other factors in our relations with these countries."

Few officials expressed doubt that the Justice Department's actions can have immediate consequences. When Justice officials led the administration's criticism of Italy last year for releasing Mohammed Abbas, accused in the hijacking of the cruise ship Achille Lauro, the Italian government collapsed within days.

Reaction was equally swift in the expulsion case last month when Meese argued that the Soviets' U.N. mission had become a haven for spies and that the State Department was "foot-dragging" in carrying out legislation to achieve parity between the two nation's diplomatic staffs.

Shultz had urged Reagan to take a more measured approach, arguing that a sweeping expulsion would simply invite further Soviet retaliation. The department's fears were realized when the Soviets dismissed the entire support staff at the U.S. Embassy in Moscow, leaving U.S. diplomats to cook and clean.

The tit-for-tat measures began when the FBI arrested Gennadi Zakharov, a low-level Soviet U.N. official, and charged him with taking classified documents from a young man who had been working with the FBI. When the Soviets responded by arresting U.S. News & World Report correspondent Nicholas Daniloff on espionage charges, senior administration officials began complaining that the Justice Department had acted alone without considering the foreign policy implications.

In fact, Zakharov's arrest was routinely cleared after consultation with the State Department and the White House National Security Council. But Justice's hopes of pursuing the case faded when Reagan approved a complicated swap for Daniloff, which included Zakharov's release after a no-contest plea.

"It came as a great shock that the Reagan administration would go so far that we couldn't even present our case in court before letting him off," a Justice Department official said. "That's fundamental. You lay out your facts in court and make it clear the guy you're going after is guilty. We had him cold, absolutely nailed."

Asked whether such arrests of alleged Soviet spies are unduly provocative, this official said: "What are we supposed to do, ignore it? Just pretend it's not happening? Disband that unit of the FBI?"

Others say the issue is a two-edged sword. "The fact is that having a large number of foreign diplomats in the United States does increase their opportunities for spying," a State Department official said. "A good number of them are spies. From the FBI's standpoint, the best thing would be to get rid of the whole lot."

"But we've got the same interest on the other side," this official said, citing likely retaliation against U.S. diplomats and intelligence operatives abroad. That, he said, "can reduce our opportunity to find out what's going on in other countries. We pay a higher price in closed societies."

In a rare role reversal last May, the two departments appeared to switch identities during a major diplomatic spat with Mexico. It began when a Treasury Department official, Customs Commissioner William von Raab, charged at a Senate hearing that there was "massive" drug-related corruption in Mexico and said opium and marijuana were grown at ranches owned by a Mexican governor.

Assistant Secretary of State Elliot Abrams, speaking more diplomatically, said at the hearing, "We have told the Mexicans in no uncertain terms that we are deeply troubled by widespread drug-related corruption."

This time, it was Meese's turn to try to patch up diplomatic relations. He denounced what he called "reckless charges," praised Mexico's cooperation in the war on drugs and told Mexican Attorney General Sergio Garcia Ramirez that the allegations did not represent the position of the U.S. government.

Meese denied that he had undercut the State Department and von Raab's allegations of corruption. But some officials said the conflicting signals gave the impression that U.S. policy toward Mexico was in disarray.

Behind Meese's burst of personal diplomacy, sources said, was concern that such public criticism would endanger his behind-the-scenes drug negotiations with Mexico.

"Meese is a strong believer in the value of personal, one-on-one relationships," a ranking Justice official said. "He has worked very hard on his relationship with Garcia Ramirez. His concern was that [the criticism] weakens Garcia Ramirez . . . and that weakens his ability to get anything done."

At the State Department, however, some officials echoed the argument often made by Meese's prosecutors that corruption should not be papered over to preserve high-level ties.

Meese and his aides "have very close relationships at the working level with the Mexican authorities, which they don't want to upset," a State Department official said. "But sometimes it's necessary to put a little pressure on the guys higher up to get more cooperation."